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Fast Track Proposed Regulation Agency Background Document

Agency name	Department of Motor Vehicles
Virginia Administrative Code (VAC) citation	24VAC20-50
Regulation title	Rules and Regulations for Motorcycle Rider Safety Training Center Program
Action title	Repeals regulation as a result of recent statutory changes that made the regulation redundant
Document preparation date	30 June 04

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 21 (2002) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

Please provide a brief summary (no more than 2 short paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes.

The current motorcycle rider safety training course program regulation outlines course and instructor requirements and contractual requirements between Department of Motor Vehicles (DMV) and the course providers. Recent statutory changes (Chapter 734 of the 2004 Acts of Assembly) incorporated key elements of the current regulatory requirements into Va. Code while eliminating the contractual aspects of the program as they relate to DMV and the course providers. The 2004 statutory changes also enhanced the overall program by (i) establishing new course licensing requirements, (ii) improving enforcement capabilities, and (iii) expanding the number and type of course providers by allowing for subsidized and nonsubsidized course training. All these enhancements to the program have made the current regulations redundant, eliminating the need for these regulations and thereby necessitating their repeal. In addition, the specific rulemaking authority associated with this program was deleted from Va. Code § 46.2-1189 as part of the recent statutory changes, adding to the rationale for repealing these regulations. DMV plans to finalize the repeal of these regulations by January 1, 2005, to coincide with the effective date of the statutory changes.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., the agency, board, or person. Describe the scope of the legal authority and the extent to which the authority is mandatory or discretionary.

The statutory authority for promulgating the amendments to these regulations is Va. Code §§ 46.2-203 (web site address: <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-203>) and 46.2-1189 (web site address: <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-1189>). The scope of the regulatory authority is general in § 46.2-203 and specific in § 46.2-1189. Va. Code § 46.2-203 allows for the Department of Motor Vehicles (DMV) to “adopt reasonable administrative regulations necessary to carry out the laws” it administers and may designate other agencies of the Commonwealth to enforce them. Va. Code § 46.2-1189 allows the DMV to “do all things necessary to carry out the purposes of this article, including the promulgation of regulations not inconsistent with law.” In both cases, the rulemaking authority is discretionary. The Office of the Attorney General has certified that the agency has the statutory authority to repeal these regulations. It should be noted that the specific rulemaking authority cited in Va. Code § 46.2-1189 has been deleted effective January 1, 2005.

Purpose

Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Detail the specific reasons the regulation is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.

The motorcycle rider safety training course is a program of instruction in the operation of motorcycles and the rules of the road. As detailed above, recent statutory changes (Chapter 734 of the 2004 Acts of Assembly) enhanced the overall program and have made the current regulations redundant, eliminating the need for these regulations and thereby necessitating their repeal. DMV plans to finalize these regulations by January 1, 2005, to coincide with the effective date of the statutory changes.

Repealing these regulations allows the Department of Motor Vehicles (DMV) to better protect the health, safety and welfare of the citizens of the Commonwealth, in general, and motorcyclists in particular. Through the use of new statutory requirements for licensing and providing course training, DMV can more easily administer the purpose and applicability of the statutes governing these courses. Likewise, the new licensing requirements provide a more appropriate vehicle for overseeing the courses and course providers. The flexibility and effectiveness of this approach means better course oversight and training. Better course oversight and training translates into safer motorcyclists on the highways of the Commonwealth, which is good for motorcyclists and good for drivers of other types of vehicles.

No specific issues should need to be addressed since the repeal of these regulations and the use of the new statutory enhancements to the program are endorsed by most, if not all, of course providers.

Rationale for using fast track process

Please explain the rationale for using the fast track process in promulgating this regulation. Please note: If an objection to the use of the fast-track process is received within the 60-day public comment period from 10 or more persons, any member of the applicable standing committee of either house of the General Assembly or of the Joint Commission on Administrative Rules, the agency shall (i) file notice of the objection with the Registrar of Regulations for publication in the Virginia Register, and (ii) proceed with the normal promulgation process with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action.

The fast track process is being used due to the noncontroversial nature of the proposed repeal action and to ensure that the repeal coincides with the effective date of the recent statutory changes to the program.

Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. (Provide more detail about these changes in the "Detail of changes" section.)

There are no new substantive provisions or substantive changes to the regulation because it is being repealed in its entirety.

Issues

Please identify the issues associated with the proposed regulatory action, including:

- 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;*
- 2) the primary advantages and disadvantages to the agency or the Commonwealth; and*
- 3) other pertinent matters of interest to the regulated community, government officials, and the public.*

If there are no disadvantages to the public or the Commonwealth, please indicate.

There are no real issues associated with the repeal of these regulations because this action will help clarify the statutory changes that become effective on January 1, 2005. The advantages to repeal unnecessary regulations, the key elements of which having been incorporated into statute, are to eliminate any possible confusion that could exist if this action were not taken. As such, there are no disadvantages to the public or the Commonwealth.

Financial impact

Please identify the anticipated financial impact of the proposed regulation and at a minimum provide the following information:

Projected cost to the state to implement and enforce the proposed regulation, including (a) fund source / fund detail, and (b) a delineation of one-time versus on-going expenditures	No such costs are associated with the repeal of these regulations; any costs associated with this program would result from the implementation of the statutory changes that become effective January 1, 2005. Such costs are expected to be minimal to none.
Projected cost of the regulation on localities	No such costs are associated with the repeal of these regulations; any costs associated with this program would result from the implementation of the statutory changes that become effective January 1, 2005. Such costs are expected to be minimal to none.
Description of the individuals, businesses or other entities likely to be affected by the regulation	Primarily course providers and instructors as well as motorcycle dealers who wish to offer the course without subsidy
Agency’s best estimate of the number of such entities that will be affected	Approximately 25 to 30 course providers total
Projected cost of the regulation for affected individuals, businesses, or other entities	No such costs are associated with the repeal of these regulations; any costs associated with this program would result from the implementation of the statutory changes that become effective January 1, 2005. Such costs are expected to be minimal to none for most affected individuals, businesses or other entities.

Alternatives

Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action.

The reason these regulations are being repealed is because they have been incorporated into the recently revised statutes governing the program, as explained above. This makes the regulations both redundant and unnecessary. Improved monitoring of the courses and the course providers, their techniques and effectiveness through the application of new statutory requirements are one of the primary reasons for the change. Given the nature of the new statutory oversight, repeal of the regulations provides for a more consistent, efficient and effective method of ensuring Virginia’s motorcyclists are safe and well trained.

Family impact

Please assess the impact of the proposed regulatory action on the institution of the family and family stability.

This proposed regulatory activity is expected to enhance the institution of the family and generally improve family stability. In general, parents will be able to have a high comfort level about sending their children to a safe, high quality training course. Students should have the same level of comfort as well. The repeal of these regulations will strengthen the authority and rights of parents by enhancing their means and opportunities to educate their children about safe motorcycle driving techniques. This safe driver education will indirectly help encourage economic self-sufficiency and allow for participants in these training courses to assume greater responsibility for themselves, their families and their communities.

Overall, impacts on marital commitment are expected to be minimal. However, under certain circumstances, a strengthening of those commitments could result from the positive impacts of these courses on their participants and their parents. Maintaining a well-trained, safe motorcycle driving population should decrease motorcycle crashes, which, in turn, should decrease the overall costs to families and society as a whole that are associated with these crashes and the injuries associated with them. Lower overall costs associated with motorcycle crashes and injuries should be expected to decrease overall insurance and health care costs and at least minimally increase disposable family incomes throughout the Commonwealth.

Detail of changes

Please detail all changes that are being proposed and the consequences of the proposed changes. Detail all new provisions and/or all changes to existing sections.

If the proposed regulation is intended to replace an emergency regulation, please list separately (1) all changes between the pre-emergency regulation and the proposed regulation, and (2) only changes made since the publication of the emergency regulation.

The repeal of this regulation will eliminate all sections of the existing regulation.